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PTO/SB/97 (09-04)

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Reply to Final Office Action (2 pgs, in duplicate)

Terminal Disclaimer (2 pgs)

Transmittal Form (1 pg)

8 PGS total including this sheet

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10/035, 821

PTO/SB/21 (09-04)

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

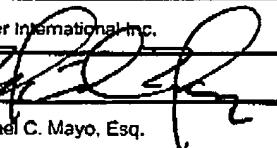
Total Number of Pages in This Submission

Application Number	10/035,821
Filing Date	October 19, 2001
First Named Inventor	Jane Werling
Art Unit	1618
Examiner Name	Simon J. Oh
Total Number of Pages in This Submission	7
Attorney Docket Number	CPIFT-5657A-1 C1

## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input checked="" type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Baxter International Inc.		
Signature			
Printed name	Michael C. Mayo, Esq.		
Date	April 28, 2005	Reg. No.	38,545

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name	Susanne L. Grant	Date	April 28, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:	Werling et al.	)
Serial No.:	10/035,821	) Art Unit: 1618
Filed:	October 19, 2001	) Examiner: Simon J. Oh
Title:	METHOD FOR PREPARING SUBMICRON SUSPENSIONS WITH POLYMORPH CONTROL	) Confirmation No. 2470
Docket No.:	CPIFT-5657A-1 C1	)

**RULE 1.116 RESPONSE TO FINAL OFFICE ACTION  
AND  
SUBMISSION OF TERMINAL DISCLAIMER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This submission of a corrected Terminal Disclaimer, in order to comply with the requirement of form expressly set forth in the previous Office Action, is filed in response to the Final Office Action mailed April 12, 2005.

In the previous Office Action (December 8, 2004), the Examiner rejected claims 1-46 and 49-64 under the judicially created doctrine of Double Patenting as being unpatentable over Claims 1-108 of U.S. Patent No. 6,607,784; and provisionally rejected claims 1-46 and 49-64 under the Double Patenting doctrine as being unpatentable over Claims 1-15 and 18-21 of copending Application No. 09/874,499; Claims 1-99 of Application No. 09/874,637, now U.S. Patent No. 6,869,617; claims 1, 3-73, 75-77, and 110-118 of copending Application No. 09/953,979; and Claims 1-97 of Application No. 10/021,692, now U.S. Patent No. 6,884,436.

In response to the previous Office Action, Applicants timely filed a Terminal Disclaimer (January 20, 2005), disclaiming the terminal portion of the instant application that would extend

Application No. 10/035,821  
Response to Final Office Action  
Page 2

beyond the termination of the above-referenced patent and applications. As pointed out in the Final Office Action, however, the Terminal Disclaimer was defective in that it did not contain a clause stating the percentage of the petitioner's ownership right, title and interest of the instant application.

Applicants herewith submit a corrected Terminal Disclaimer now containing the clause of ownership of the instant application. The Terminal Disclaimer fee under 37 CFR 1.20(d) had been submitted previously with the January 20, 2005 response, however, the Commissioner is authorized to charge any additional fees, or credit any overpayment, to deposit account 02-1440. Two copies of this letter are enclosed for accounting purposes.

The submission of the Terminal Disclaimer is believed to moot the Examiner's rejection of the claims. Applicants therefore respectfully request reconsideration and allowance of the pending claims in the present application.

Respectfully submitted,



Michael C. Mayo  
Registration No. 38,545  
Attorney for Applicant

April 28, 2005

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C O P Y

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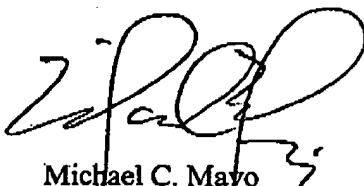
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